

# HOUSE . . . . . No. 2711

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By Mr. Kujawski of Webster, petition of Paul Kujawski for legislation to prohibit conflicts of interest in medical referrals. Public Health.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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### AN ACT RELATIVE TO MEDICAL REFERRALS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Notwithstanding the provisions of any general or special law to  
2 the contrary, no individual physician or physician group under the  
3 solo or group practice exclusion from the definition of “clinic”  
4 contained in section 52 of chapter 111 of the General Laws, other  
5 than a radiologist, or any physician employed by a hospital or  
6 hospital affiliate, shall refer a patient for services to a health care  
7 entity that provides services through use of magnetic resonance  
8 imaging, positron emission tomography, or linear accelerator  
9 equipment, if: (i) the physician holds a direct or indirect owner-  
10 ship or investment interest in such entity; (ii) the physician’s  
11 immediate family holds a direct or indirect ownership or invest-  
12 ment interest in such entity; or (iii) the physician or member of  
13 the physician’s immediate family has any direct or indirect  
14 arrangement involving compensation with such entity. For pur-  
15 poses of this section, “health care entity” is defined as an entity  
16 that provides health care related testing, diagnosis or treatment of  
17 individuals but does not include a hospital, hospital affiliate, or a  
18 constituent of a hospital system. For purposes of this section, a  
19 “hospital” is defined as a hospital licensed under section 51 of  
20 Chapter 111; a “hospital affiliate” is defined as any entity that,  
21 directly or indirectly, is controlled by, controls, or is under  
22 common control with a hospital or a joint venture in which a hos-  
23 pital participates; “control” is defined as the ownership of at least

24 fifty percent of the equity in an entity or the ability to appoint at  
25 least fifty percent of the members of the governing body of such  
26 entity; and “hospital system” is defined as an organized group of  
27 health care providers at least one constituent of which is a not-for-  
28 profit hospital. For purposes of this section “investment interest”  
29 is defined as an ownership or investment interest through equity,  
30 debt, leasehold interest, or other means regardless of whether such  
31 interest is direct or indirect. The provisions of this section shall  
32 not apply to physicians practicing in a group practice who order  
33 magnetic resonance imaging, positron emission tomography, or  
34 linear accelerator services for their patients when such service is  
35 to be provided in association with or by such group practice if a  
36 service of this type was being provided in association with or by  
37 such group practice on or before June 15, 2004. The department  
38 of public health shall enforce this section. The Superior Court  
39 shall have jurisdiction in equity to enforce the provisions of this  
40 section. Upon an initial determination of a violation of this  
41 section, the department shall forthwith seek injunctive relief in the  
42 Superior Court. A violation of this section shall be punishable by  
43 a fine of not less than \$25,000. Any continuing violation of this  
44 section shall be punishable by a fine of not less than \$25,000 and  
45 not more than \$100,000 per day of operation, and by one or both  
46 of: (i) referral of the physician to the board of registration in med-  
47 icine for appropriate disciplinary action; and (ii) revocation of the  
48 health care entity’s license.